



SRAP
Socially Responsible
Agricultural Project

☐

October 6, 2015 ☐

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Via email and certified mail ☐

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Jared Blumenfeld, Administrator ☐

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**RE: Request for Clean Air Act 42 U.S.C. § 7413 Enforcement Actions Against
Hickman Family Farms and Hickman's Egg Ranch, Inc. of Tonopah,
Arizona and Hickman's Egg Ranch of Arlington, Arizona**

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Dear Administrator Blumenfeld and Division Directors:

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This letter serves as a formal request by STOPP, Inc. - Save Tonopah Oppose Poultry Plant, Don't Waste Arizona, the Socially Responsible Agricultural Project (SRAP) and concerned citizens of Tonopah, Arizona for the United States Environmental Protection Agency (EPA), Region 9 to pursue investigations and enforcement pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, against Hickman Family Farms, Hickman's Egg Ranch, Inc. (permit # 140062; located at 41625 W. Indian School Road, Tonopah, Arizona) and Hickman's Egg Ranch (permit # 040136; located at 32425 Salome Highway Arlington, Arizona).

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If EPA, Region 9's investigation findings are consistent with the allegations made herein, we further request that EPA revoke the Non Title V Air Quality Permits to Operate and/or Construct for both Hickman facilities. We also request that EPA prohibit any further construction at either site until each has applied for and been issued Title V permits. This is because we believe the Maricopa County Air Quality Department issued an Air Quality Permit to Operate and/or Construct without the proper application, without a proper New Source Review, and without an adequate understanding of the volume, types and sources of air pollutants to be emitted from either facility. ☐

In addition, we raise concerns that the aforementioned operations are not properly reporting under the Emergency Planning and Community Right to Know Act (EPCRA), Sections 304, 42 U.S.C. §11004, and 313, 42 U.S.C. §11023. ☐

area. The evaluation and analysis of the Indiana NAEMS data showed that the Number to Exceed Emissions Threshold (NEET) would be met at 4.6 million birds.² Either way, this facility is expanding to potentially house 12 million birds. Our estimations are as follows:

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a. Annual VOCs at Tonopah facility: (Currently - 4.3 million birds)~ (59.6mg/day/hen)☐☐☐
 $0.0000596 \text{ kg/day/hen} \times 4.3 \text{ million birds} = 256.28 \text{ kg/day}^1 \times 365 \text{ days} = 93,542 \text{ kg/year} \times$
 $2.20462 \text{ lbs} = 206,225 \text{ lb/yr} = 103 \text{ tpy (tons per year)}$

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b. Max. Annual VOCs at Tonopah facility: (12 million birds) ~ (59.6 mg/day/hen)☐☐☐
 $0.0000596 \text{ kg/day/hen} \times 12 \text{ million birds} = 715 \text{ kg/day}^1 \times 365 \text{ days} = 261,048 \text{ kg/year} \times$
 $2.20462 \text{ lbs} = 575,512 \text{ lbs/yr} = 288 \text{ tpy}$

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Also, our analysis of Hickman's Egg Ranch in Arlington shows that the 12 million birds currently housed at this site produce VOC emissions of 715 kg/day¹ or 288 tpy. ☐☐☐

The above referenced calculations are from the horizontal ventilation systems of each laying house and therefore are non-fugitive and count towards the major source threshold. These calculations are only for the buildings that the birds are housed in. No emissions calculations were estimated for the manure sheds at the Tonopah site, nor the manure stacks at the Arlington facility. Additionally, the calculations do not include emissions from emergency diesel generators or process wastewater evaporation ponds at both facilities. Therefore, the actual emissions from each site are likely greater than our estimates indicate.

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Furthermore, eggs are washed, broken and further processed into liquid, hard-boiled and made into dehydrated products at the Arlington facility, so it is not an agricultural site, but in fact is an industrial food processing facility. Calculation of VOCs from the egg processing facility at Arlington has not been included in this complaint, but it should be as the egg processing facility is on the same property as the CAFO. There is also evidence of processing and production codependency between the Tonopah and Arlington sites. (This issue is discussed in more detail under Section III below.)☐☐☐

According to data from the 2007 Maricopa 8-hour Ozone Plan Appendices vol.1, and our calculations based upon the results of the NAEMS study, both Hickman sites together are currently the top VOC stationary source in Maricopa County.

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II. Both Arlington and Tonopah Hickman Operations should be Considered as One Source Under the Clean Air Act ☐☐☐

Even though these two sites are not contiguous, we believe that both of these CAFOs should be considered as one source per the definition of a CAFO under the federal Clean Water Act. The Act defines a CAFO as:

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“Two or more AFO's under common ownership are considered one operation if, among other things, they adjoin each other (including facilities that are separated only by a right-of-way or a public road) *or if they use a common area or system for managing wastes*” [emphasis added] 40 CFR § 122.23(b)(2).

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For example, operations generally meet the criterion where manure, litter, or process wastewater are commingled (e.g., stored in the same pond, lagoon, or pile) or are applied to the same

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cropland.³ Manure from the facility in Tonopah is being transported to the Arlington facility where it is then being stored in rows on the ground unprotected from the elements. The manure handling details for the Tonopah facility are found in the facility's Nutrient Management Plan.⁴

With regards to our argument that the Tonopah and Arlington Hickman operations should be considered one source, it should be noted that EPA Region 3 undertook the following considerations in determining whether two CAFO sites were a single source in a case that came before them under the Clean Air Act.⁵ EPA based its determination on the following items: contractual agreements, adjacent location, financial interest based upon conversations with both facility owners, Dun and Bradstreet reports, common employees, shared equipment, and process/production codependency.

In the case at hand, both of Hickman's Arlington and Tonopah sites meet several of the above criteria for a "single source" determination. For example, both sites share equipment, feed, waste management systems, employees, process and production codependency, and financial interests. Therefore, based upon the same criteria that EPA Region 3 considered in making a "single source" determination, we suggest that Region 9 consider these two sites as one source. As such, when both of the Hickman facilities are considered together as one source, the operation would far exceed the threshold for emissions of VOCs. Our estimates are as follows:

NEET = 100 tpy
Arlington facility VOCs = 288 tpy
Tonopah facility VOCs (currently) = 103 tpy
Total VOCs = 391 tpy

Therefore, we believe both Hickman CAFOs should be considered as one source and operating under one Clean Air Act Title V permit.

III. Additional Concerns Regarding Hickman's Failure to Report Under the Emergency Planning and Community Right to Know Act

We also have additional concerns that the Hickman operations are not properly reporting under EPCRA. Section 304 of EPCRA, 42 U.S.C. §11004, requires that Ammonia (NH₃) emissions greater than 100 lbs/day be reported.

³ EPA, Office of Water, *NPDES Permit Writers' Manual for Concentrated Animal Feeding Operations*, EPA-833-F-12-001, February 2012, available at: http://water.epa.gov/polwaste/npdes/afo/upload/cafo_permitmanual_chapter2.pdf (last visited on July 31, 2015).

⁴ Hickman's Family Farms, Tonopah Plant, Nutrient Management Plan, dated Oct. 31, 2014, available at: <https://drive.google.com/a/sraproject.org/file/d/0B7PSUIgpIbxicFFiV2YwMFMxdU0/view?usp=sharing>.

⁵ See Miller, Colombe, *Married Under the Clean Air Act – the Single Source Determination and Problems Arising Therefrom*, Trinity Consultants Report Control # 342, July 26, 2004 (citing to Letter from Judith Katz, USEPA, Region III to Gary Graham, Virginia Department of Environmental Quality, May 2, 2001).

that EPA invoke any justifiable fines and penalties applicable under both the Clean Air Act and EPCRA. 쥘□η

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We are available to answer questions or provide additional information regarding any of the information contained herein. We look forward to hearing from Region 9 about any steps that will be taken in response to this complaint.

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Thank you for your immediate attention to this matter.

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Sincerely yours:

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